

Formal Justice Systems in responding to Sexual and Gender-Based Violence (SGBV), Harmful Practices (HP) and Sexual Reproductive Health Rights (SRHR) in Zimbabwe

Sexual and Gender-Based Violence (SGBV)

Any act that is perpetrated against a person's will and is based on gender norms and unequal power relations.

Harmful Practices (HP)

traditional and cultural practices perpetuate male dominance and the inequality of women and children based on their sex, gender, age and other intersecting factors.

Sexual and Reproductive Health and Rights (SRHR)

Women's right to control their fertility, decide on the method, self-protection and reproductive autonomy and the prohibition of harmful practices.

Zimbabwe's Formal Justice Systems based on both International and National legal policy framework.

INSTITUTIONAL FRAMEWORK



Government Ministries: Ministry of Justice, Legal and Parliamentary Affairs (MoJLPA), Ministry of Health and Child Care (MoHCC), Ministry of Labour and Social Welfare and Ministry of Women Affairs Small and Medium Enterprises (MoWASME).

Government Institutions: Attorney General (AG) and NPA, Zimbabwe Republic Police (ZRP), Legal Aid Directorate (LAD), the courts and Victim Friendly Unit (VFU).

Reporting Mechanisms: Domestic Violence Act (DVA), Clerk of Court, Criminal Procedure and Evidence Act (CPEA) and Multisectoral Protocol.

Civil society initiatives: Initiatives such as psychosocial support, medical assistance, legal assistance, safe houses and advocacy.

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Research Methodology



Research Approach

A gender sensitive qualitative and comparative approach for the survivor's and witnesses' experiences.



Sampling Approach and Data Collection Methods

Targeting community members, key stakeholders and key participants in the formal justice systems.



Research Sites

The 3 districts were chosen as they fall under the Spotlight Initiative programming areas and also have high prevalence of SGBV and HPs.

SGBV Survivors

36



Interviews

4 Witness 21 Key Informants

15 Interviews at National Level



Population

Hurungwe



Mutasa



Umzingwane



Population: 2012 Census

Hurungwe

- Cost of reporting to the courts is that the family of the husband will alienate the woman and send back to her parents.
- Structures are not in place to make sure the survivors get the assistance they need and knowing the procedure would make more confident and in control of the situation.
- Trained volunteers in the communities who were responsible for referring survivors to health services and this was dependent the availability of the services during lockdown.

Umzingwane

- Person with disabilities is physically challenged.
- Stigma for sex workers due to cultural aspects and often humiliated by the system.
- The survivor is left to figure out life during and after trial without any protection.
- Family Planning mobile clinics were unable to make usual rounds during COVID-19.
- Socio-cultural systems entrenched barriers to accessing legal assistance.
- The importance of the referral pathways and the reporting of cases has been empowering the community.

Mutasa

- Church prohibits reporting to formal and informal justice system.
- Use of technology is limited in accessing services.
- Family loses support if the breadwinner is perpetrator being imprisoned.
- Perpetrators boast of knowing the police after getting out of jail.
- Children remain HP victims for not knowing they are protected from such practices.
- Decriminalise willful transmission of HIV should not be promoted as people may lead to hide their status.
- Rape victims brought in by Police received assistance in medical examinations and wound treatments.
- Pregnant women from rape has opportunity to abort, however, to get legal abortion is long and fraught process.
- Increase awareness on SGBV male survivors.
- Essential services were not available during COVID-19 lockdowns.
- Accessing clinics was risky.
- Women's shelter run by CSOs remained open for survivors but access was problematic during COVID-19.

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Violations on women and children's rights.

Physical Violence



35%
15-49 years old
since 15 years old

Spotlight Initiative
Country Document 2018

Emotional Violence



32%
ever-married woman

ZimStats 2016

Childhood Sexual Violence



48% 5%
13-17 years old
2 or more incidents

ZimStats 2016

Sexual Violence



9% 2%
13-17 years old
2011 National Baseline Study on the Life
of Experiences of Adolescents (NBSLEA)

Did not consent first incident



43%

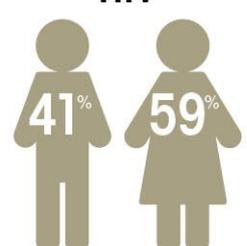
Raped or sexually assaulted



1 in 3
before 18 years old

2013 ZimStats

Living with HIV



41% 59%

IPPF 2012

High vulnerability to HIV Infection



14-25 years old
4 to 5x higher than boys of same
age and teenage pregnancies

IPPF 2015

Intimate Partner Violence IPV



15-49 years old

ZimStats 2016



1 in 8
Sexually
Harassed
at School

22%
Abused by
Child givers

MPSLSW 2016

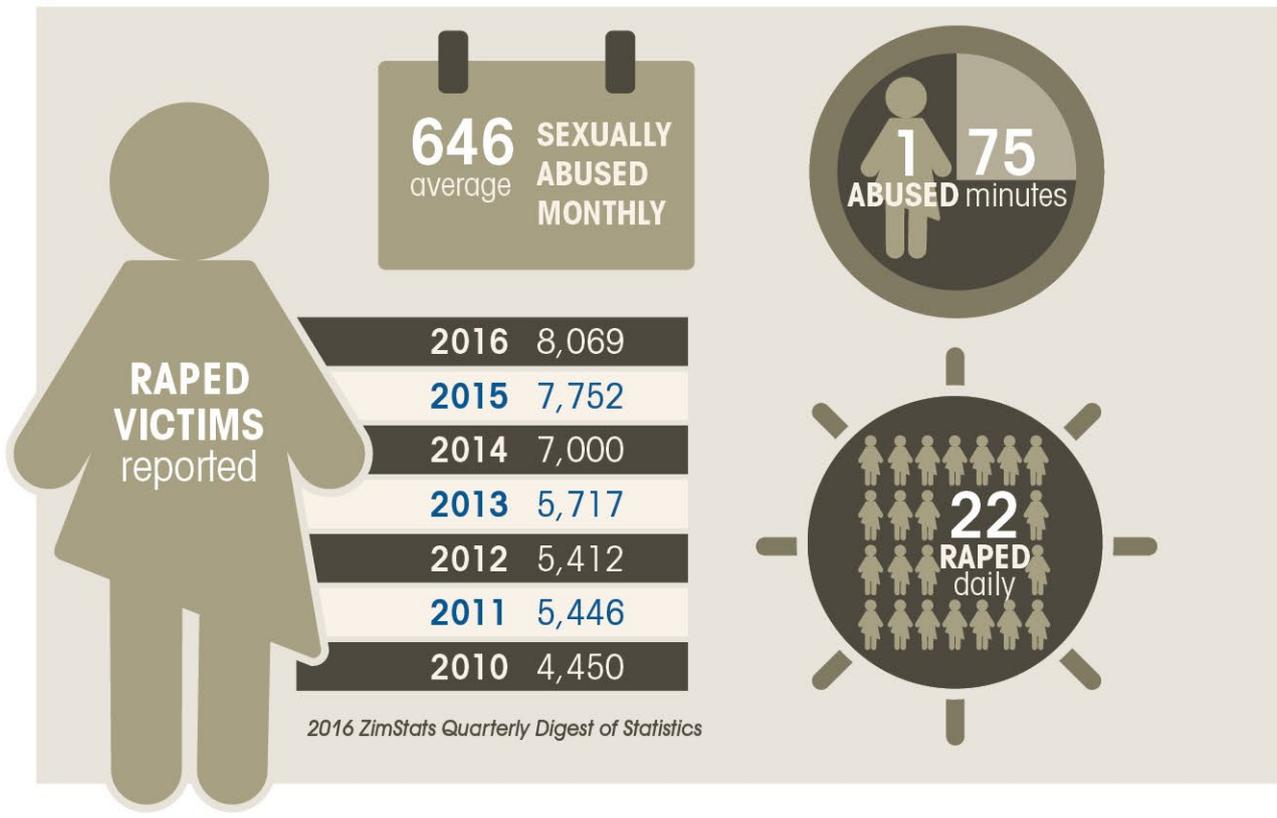
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Importance of Protocol for Children's Justice

- A child has a right to have a parent or trusted adult throughout the process.
- Consider the child's readiness and ability to talk, the child's physical and emotional needs.
- A child be interviewed privately, safely, confidentially and in a familiar space.
- Prior to any service provisions must be explained to the child (parent or guardian) what the process and services will be provided.
- A skilled and experienced person is required to determine the child's capacity to make or contribute to decisions that affect them.
- Maturity of a child must be assessed on an individual basis. Children younger than 9 years old have the right to give opinion and be heard.



Constitution of Zimbabwe
Section 31 (3)
 Children are entitled to adequate protection by the courts, in particular by the High Court as their upper guardian.



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► Survivors and Witnesses' Experience in the Formal Justice Systems

Medical Facilities



- Failed to access services to help with GBV trauma.
- Issue to access abortion services for survivors of rape.
- Young children as witnesses are not provided with any care.
- Witness are overlooked in SGBV cases.

1,820

Surveyed on GBV knowledge, attitudes and practices.

24%

Aware of shelters and Post-Exposure Prophylaxis (PEP).

83%

Community members believed a Police report must be made in order to access health services.



Post-Court

- The survivor is on their own no matter what the outcome of the case.
- Ill-equipped and no post-court counselling services.
- SGBV is treated as a criminal psychological issue and not a civil issue.



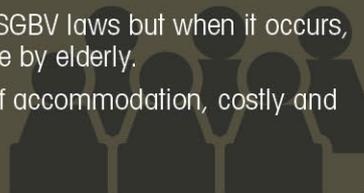
National Prosecution Authority (NPA)

- Poor conditions of services that prosecutors are focussed on the number of cases that go through the court without assisting the survivors and informing their rights.
- Survivors fail to report to avoid getting traumatised further.



Court

- No specialise courts for children and are child-unfriendly and disability-unfriendly. No freedom to explain his or her ordeal in court and psycho support because of the environment.
- Barrier due to social and cultural factors.
- Court procedures are lengthy and distance is too far.
- Women often know about various SGBV laws but when it occurs, it is often explained to be act of love by elderly.
- Witnesses' challenge due to lack of accommodation, costly and stigma within the community.



Public Health Act

Section 33 (revised)

Provides emergency treatment but does not specify health care services access to PEP, emergency contraceptive and safe abortion for SGBV survivors.

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Findings on the referral pathway for SGBV responses

- Lack of provision by the state of resources leading to donor dependence and failure of the system to be responsive.
- Survivor’s confusion as to where to start as some are turned away from hospitals and are asked to get a police report before getting assistance.
- Gender insensitive justice system.
- Socio-cultural and attitudinal barriers.
- Lack of legal information.
- Lack of coordination and sharing among service providers.
- Inadequate gender mainstreaming in laws, policies and institutions.
- Lack of disaster preparedness.



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Issues

- One-size-fits-all approach causes complications at local level.
- Laws should be translated into vernacular language that is easy for the community to understand.
- No accountability to survivors with the system.
- Lack of survivors and witness in the criminal justice system, often lack of information how the system work.
- Prosecutors have to prove guilty beyond reasonable doubt and where evidence is missing the alleged perpetrators go free.
- Challenges for survivors and witnesses accessing services at night.
- Lack of alternative reporting methods for those who wish to report anonymously.
- Distance and costs is a challenge to access justice.
- Late termination of pregnancy for young girls.
- Rape cases goes unreported.
- Lack of clarity on criminal law on child marriage.
- Perpetrators have left the country to escape justice which leaves the case pending.
- Some districts, most men are unemployed; children and women continue to be denied of their rights and the violation continue.

Costs and Implications

- Costly on transport especially for rural communities.
- No safe houses for survivors in remote rural areas forcing them to go back and stay in the same house of the perpetrator.
- Lawyers fee are costly.
- CSOs offer legal aid service provision reduces burden of cost by many women still face justice systems.
- Socio-cultural costs when a close family or community member is involved.
- Indirect cost include loss of time when it can be spent seeking income.
- Apostolic churches, reporting to formal justice systems can lead to excommunication from the church as well as from social support systems.

2020 Law Society of Zimbabwe

New structure for legal fees which makes some services out of the reach of most people especially poor women.

During the Pandemic

- Government diverted funding and attention to COVID-19 at the expense of health issues already existent such as HIV.
- Women denied access by police at roadblocks.
- Certain human rights are suspended.
- Self-isolation and limited mobility to access basic family resources.
- SGBV, HR, SRHR violation are neglected.
- Most essential services not readily available.

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What actions to be done to prevent SGBV, HP and SRHR?



Amend and align laws with International and Regional human rights agreements.

To provide right to legal aid for survivors of SGBV, HP and SRHR as a justiciable right.



Legal Aid Directorate. To build and develop relationships with each of the CSO legal aid providers.



Alignment of laws with the International and Regional human rights agreements and Constitution of Zimbabwe.

To advocate for fast paced reforms of legal frameworks for the protection of women and children in line with the 2013 Constitution.



Judicial Services Commission. To build infrastructure that ensures that courts are adequately equipped to reduce survivors' contact with the accused and ensure their safety.



Building capacity of Prosecutors and Police Officers in handling SGBV Cases.

To improve knowledge on human rights and relation between the Prosecutor, Police and survivors.



Broadening the justice agenda. To invest more in building survivor resilience through a survivor centered multifaceted approach to justice.



Investment in technology and infrastructure to make formal justice system more accessible.

To build affordable technological systems that enhance access to services.



Continued programming and training around changing community attitudes and norms. To continue investing in community training and advocacy that focuses on changing attitudes, norms and practices that promote SGBV and HP.



Strengthening the referral pathway.

To have ongoing support and services for survivors from a set service providers.



Judicial activism. To utilise international agreements that Zimbabwe is party to such as CEDAW when they make their rulings in order to protect the rights of women and children from unjust laws.

RECOMMENDED

Referral System



- Survivor
- Paralegal



- Survivor
- Legal Aid provider
- Clinician
- Psychosocial

Community

Police



Police Service. To improve the service provided to survivors, witnesses and the community in general.

- To identify and deal with violence against women.
- To work with communities to identify and support victims.
- To establish and strengthen effective reporting systems.

Survivor



- Survivor
- Paralegal
- Psychosocial



- Survivor
- Legal Aid providers
- Psychosocial



Community

Court

NPA